IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Frederick S. Kaufman, et al.
Serial No.	10/735,954
Filing Date:	December 15, 2003
Group Art Unit:	2165
Confirmation No.:	3405
Examiner:	Apu M. Mofiz
Title:	ROW TRIGGERS

MAIL STOP AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. Applicants respectfully request reconsideration of the Application in light of the remarks set forth below.

REMARKS

Claims 1-26 are pending in the Application. In a Final Office Action dated November 3, 2006 (hereinafter the *"Final Office Action"*), Claims 1-26 were rejected as being unpatentable over U.S. Patent No. 5,930,795 issued to Chen et al. (hereinafter *"Chen"*). Applicants contend that the rejection of Claims 1-26 on prior art grounds contain clear legal and factual deficiencies, as described below. Applicants respectfully request a finding that these rejections are improper and allowance of these claims.

At the outset, Applicants respectfully note that, in rejecting all of Claims 1-26, the Examiner relies upon allegedly inherent properties of the *Chen* system. Nonetheless, Applicants respectfully submit that the Examiner fails to satisfy the requirements for an inherency finding. Specifically, Applicants note that "[i]n relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). Here the Examiner has merely concluded that elements of a number of different claims are an inherent part of the operation of *Chen* without considering the possibility that alternatives to the relevant claim elements might be used in, what the Examiner labels as, "process[ing]" a triggered statement. *Office Action*, p. 5.

In addition, these allegedly inherent properties only result from a hypothetical situation that the Examiner has himself crafted. The Examiner provides a lengthy description of requirements that the Examiner himself concedes must be satisfied for the allegedly inherent properties to result. Consequently, by the Examiner's own admission, these properties are not *inherently* part of the teachings of *Chen*. For example, the Examiner notes that these properties occur only "*if* Table AB row is divided into disk A (and attached processor A) and disk B (and attached processor B)" and "*if...*an UPDATE on the table AP row triggers an event." *Final Office Action*, p. 5, emphasis added. While Applicants do not agree that, even under the conditions described by the Examiner, the claim subject matter necessarily is part of the system described by *Chen* and/or its operation, the Examiner rebuts his own case for inherency by noting that certain conditions not discussed by *Chen* must be

satisfied, even in his mind, for the structure and operation of the *Chen* system to inherently anticipate the claimed subject matter.

Furthermore, even ignoring the clearly conditional nature of what the Examiner alleges are inherent aspects of *Chen*, the Examiner's sole explanation for determining that any missing elements of *Chen* are allegedly inherent is simply that "there is no need to access other portions of memory when the other memory portions do not have the corresponding data that needs to be processed." *Final Office Action*, p. 6. Nonetheless, the mere fact that a particular step is not needed in the operation of a disclosed system does not make any and all alternative steps inherent parts of the operation of the disclosed system. The Examiner additionally states that "[i]dentifying a processor is done at the database management system level and not at the user level." *Final Office Action*, p. 6. Applicants respectfully note however that the Examiner provides absolutely no evidence to support this assertion.

Thus, for at least these reasons, the Examiner fails to present a *prima facie* case of inherency. As a result, the deficiencies of *Chen* previously noted by Applicants are not overcome by the new rejections presented in the Final Office Action. Thus, as noted by Applicants in a Response to Office Action filed August 31, 2006 ("the August 31 Response"), *Chen* fails to recite, expressly or inherently, every element of Claims 1-26 for at least several reasons. Claims 1-26 are thus allowable.

More specifically, first, Claim 1 is allowable because *Chen* fails to recite every element of Claim 1 for at least several reasons. For example, as Applicants previously asserted, *Chen* fails to disclose "identifying a processing unit to receive the transition table row and a triggered action of the trigger based on an association between the processing unit and a portion of memory." *August 31 Response*, p. 11. Thus, notwithstanding the Examiner's arguments, *Chen* fails to recite every element of Claim 1, and Claim 1 is thus allowable for at least this reason. Although of differing scope from Claim 1, Claims 11 and 21 include elements that, for reasons substantially similar to those discussed with respect to Claim 1, are not disclosed by *Chen*. As a result, Applicants respectfully request reconsideration and allowance of Claims 1, 11, and 21, and their respective dependents.

Second, as Applicants previously noted (*August 31 Response*, p. 12), the Examiner fails to specifically address the individual limitations of Claim 4, instead basing the rejection

of Claim 4 on the language of Claim 1. Applicants respectfully note that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03. Moreover, Chen fails to recite, expressly or inherently, every element of Claim 4. As one example, Chen fails to disclose "instructing a first processing unit, in response to determining that the triggering statement of the trigger will execute, to communicate a transition table row to a second processing unit, wherein the transition table row comprises at least one value associated with the subject table row" as recited by Claim 4. Claim 4 is thus allowable for at least this reason. Although of differing scope from Claim 4, Claim 14 includes elements that, for reasons substantially similar to those discussed with respect to Claim 4, are not disclosed by *Chen*. As a result, Applicants respectfully request reconsideration and allowance of Claims 4 and 14, and their respective dependents.

Similarly, as Applicants also noted (*August 31 Response*, p. 12), the Examiner also fails to specifically address the individual limitations of Claim 7, contrary to M.P.E.P. § 2143.03. Moreover, Chen fails to recite, expressly or inherently, every element of Claim 7. As one example, Chen fails to disclose "receiving a triggering statement of a trigger to be executed on a subject table row of a subject table and *information identifying a processing unit*" (emphasis and underlining added) as recited by Claim 7. Claim 7 is thus allowable for at least this reason. Although of differing scope from Claim 7, Claim 17 includes elements that, for reasons substantially similar to those discussed with respect to Claim 7, are not disclosed by *Chen*. As a result, Applicants respectfully request reconsideration and allowance of Claims 7 and 17, and their respective dependents.

Similarly, as Applicants also noted (*August 31 Response*, p. 13), the Examiner also fails to address the individual limitations of Claim 9, contrary to M.P.E.P. § 2143.03. Chen fails to recite, expressly or inherently, every element of Claim 9. As one example, Chen fails to disclose "receiving a triggered action of a trigger associated with a subject table and *information identifying the transition table row*" (emphasis added) as recited by Claim 9. Claim 9 is thus allowable for at least this reason. Although of differing scope from Claim 9, Claim 19 includes elements that, for reasons substantially similar to those discussed with respect to Claim 9 are not disclosed by *Chen*. As a result, Applicants respectfully request reconsideration and allowance of Claims 9 and 19, and their respective dependents.

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CONCLUSION

As the rejection of Claims 1-26 contain clear deficiencies, Applicants respectfully request a finding of allowance of Claims 1-26.

The Commissioner is hereby authorized to charge any required fees or to credit any overpayments to Deposit Account No. 02-0383 of BAKER BOTTS L.L.P.

Respectfully submitted,
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Date: February 2, 2007